

HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b))

Description of the case.

W.P. No. 1679/05 (S/S)

Bhawan Singh Bisht

vs

State of Uttaranchal and others.

Approved for reporting

~~Not approved for reporting~~

Date of decision 01.03.2006

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Writ Petition No. 1679 of 2005(S/S)

Bhwan Singh Bisht, S/o Sri Darshan Singh, R/o Village Niwal Gaon, P.O. Thati, Budha Kedar, Vikas Khand Bhilangana, Tehsil Ghansali, District Tehri Garhwal.

.... Petitioner.

Versus

- 1- State of Uttaranchal through District Education Officer, Tehri Garhwal.
- 2- Block Education Officer, Bhilangana Tehsil Ghansali District Tehri Garhwal.
- 3- Village Education Committee, Village Niwal Gaon Block Bhilangana, Tehsil Ghansali District Tehri Garhwal through its Chairman.
- 4- District Primary Education programme (DPEP).Additional District Education Officer Tehri Garhwal.

.... Respondents.

Sri Anil Bisht, learned counsel for the petitioner.
Learned Standing counsel for respondents.

HON'BLE RAJESH TANDON, J.

01.03.2006

Heard Sri Anil Bisht, learned counsel for the petitioner and learned Standing counsel for the respondents. Both the parties submitted that the writ petition may be disposed of at admission stage.

The petitioner has prayed for a writ of mandamus commanding the respondents to consider the candidature of the petitioner for the post of Shiksha Mitra. The challenge of the petitioner is that in view of condition no.3 framed on 16-1-2004 for the

appointment of the Shiksha Mirta to the effect that in case the candidates are not available in the Gram Sabha, the candidate from Vikas Khand may also be considered, will cause prejudice to the petitioner in consideration of his appointment. The petitioner has submitted that he is a resident of Village Niwal Gaun, P.O. Thati Bhudha, Tehsil Ghansali, District Tehri Garhwal and is an unemployed youth of the village. He has referred the Government Order dated 16-1-2004. The Government Order dated 16-1-2004 is quoted below:

“1. शिक्षा मित्र की व्यवस्था शासनादेश संख्या 472/मा0स0वि/9.1.89.2000/दि0 27.1.2001 संख्या 134/मा0स0वि/2001 दि0 21.4.2001 संख्या 17/वे0.शि0/2.4 दि0 16.1.2004 तथा संख्या 230/33-1 1/2005-15-2004 दिनांक 19/4/2005 एवं निदेशालय के पत्रांक वे0/13918-19/2005-06 दिनांक 16-7-2005 एव पत्र संख्या बेसिक/14648-73/2005-06/दिनांक 20.7.2005 में निहित प्राविधानों के अन्तर्गत की जायेगी।”

However the petitioner apprehends that in view of clause 7 of the advertisement dated 12-8-2005, the petitioner shall not be considered for appointment. It reads as under:

“7. शिक्षा मित्रों का चयन ग्राम सभा अथवा ग्राम पंचायत की सीमा के अन्दर ही किया जायेगा। ग्राम सभा/ग्राम पंचायत में प्रशिक्षित अभ्यर्थी न मिलने

पर विकास खण्ड के उपयुक्त अभ्यर्थी से, विकास खण्ड के अर्न्तगत प्रशिक्षित अभ्यर्थी न होने की दशा में ग्राम पंचायत में उपलब्ध स्नातक अभ्यर्थी से तथा यदि ग्राम पंचायत में स्नातक अभ्यर्थी न हो तो विकासखण्ड स्तर पर उपलब्ध अभ्यर्थी (जिन्होंने आवेदन किया है) से व्यवस्था की जायेगी।”

Heard the standing counsel for the State. Standing counsel has submitted that when there is a clear provision that the candidates from the Gram Sabha shall be considered therefore, clause 7 with regard to out side the Gram Sabha is only the optional in case trained graduates are not available. So far as training part is concerned the same is also provided in rule 12. The same is quoted below:

“12 जिस विद्यालयों में शिक्षा मित्र की आवश्यकता हो उस विद्यालय की शिक्षा समिति द्वारा विकास खण्ड स्तर पर — अभ्यर्थियों में से अपने विद्यालय के लिये शिक्षा मित्रों को आमंत्रित कर एक माह का प्रशिक्षण, जिसकी व्यवस्था जिला शिक्षा एवं प्रशिक्षण संस्थान द्वारा की जायेगी 10 माह के लिये रु0 3430/- प्रतिमाह मानदेय पर कार्य लिया जायेगा।”

The apprehension of the petitioner therefore, is not true. The petitioner shall be considered along with other candidates for the appointment of Shiksha Mirta. The respondents are, therefore, directed to proceed for the appointment of the Shiksha Mirta in view of the Government Order dated 16-1-2004.

In view of aforesaid, the respondents are directed to consider the candidature of the petitioner in accordance with the Rules framed for appointment of Shiksha Mitra.

Subject to aforesaid observations, the writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J)

01-03-2006

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